

### **REMARKS**

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-2 and 5-9 are pending. Claim 3 and 4 are canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 1, 6, and 7 are amended, and claims 8 and 9 are added. Claims 1 and 9 are independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

### **Allowable Subject Matter**

The Examiner states that claim 4 would be allowable if rewritten in independent form.

The Applicants thank the Examiner for the early indication of allowable subject matter in this application. In response, the subject matter of objected-to claim 4 has been incorporated into independent claim 1; therefore, independent claim 1 and claims 2 and 5-8, which depend directly or indirectly therefrom, should be in condition for allowance.

### **Claim for Priority**

It is gratefully acknowledged that the Examiner has recognized the Applicants' claim for foreign priority. In view of the fact that the Applicants' claim for foreign priority has been perfected, no additional action is required from the Applicants at this time.

### **Drawings**

It is gratefully acknowledged that the Examiner has accepted the formal drawings filed on October 29, 2001.

**Acknowledgement of Information Disclosure Statement**

The Examiner has not acknowledged the Information Disclosure Statement filed on July 27, 2001. Clarification is respectfully requested in the next official communication.

**Rejection Under 35 U.S.C. §112, second paragraph**

Claims 1-7 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. This rejection is respectfully traversed.

In order to overcome this rejection, claims 1, 6, and 7 are amended to address each of the issues specifically pointed out by the Examiner. Applicants respectfully submit that the claims, as amended, particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

**Rejection Under 35 U.S.C. §102(a)**

Claims 1-3 and 5-7 stand rejected under 35 U.S.C. §102(a) as being anticipated by Yuichiro et al. (JP 11-230934). This rejection is respectfully traversed.

As noted above, the subject matter of objected-to claim 4 is incorporated into claim 1.

In addition, independent claim 9 is added herein to recite a combination of method steps defining a method of discriminating a sample, including the steps of: using a ratio of a measured current value to a time-differential value of the current value as a discriminating parameter; defining a discrimination function for discriminating kinds of a plurality of samples, said discrimination function using said discriminating parameter as an independent

variable; using a numeric value obtained by substituting the value of said discriminating parameter into said discrimination function, as a discriminating index; and discriminating the kind of any one of the plurality of samples based on said discriminating index, in which said discrimination function is defined by means of an expression using  $P$  number of said discriminating parameters,  $P$  being an integer larger than or equal to three, wherein said sample is discriminated using a boundary of a  $(P-1)$  dimensional surface.

In contrast to the subject matter of added independent claim 9, JP 11-230934 (Yuichiro et al.) cited in the present Office Action discloses a simple difference between the parameters. However, JP 11-230934 does not disclose such a feature in claim 9 to use  $P (\geq 3)$  number of discriminating parameters and the boundary of the  $(P-1)$  dimensional surface.

According to independent claim 9, by virtue of the above-mentioned feature, it is possible to use many optimum parameters corresponding to measuring conditions or samples states. Also, consequence according to claim 9, the samples can be discriminated with much higher accuracy in comparison to the method according to JP 11-230934, which uses only two discriminating parameters.

In particular, in the case where the method is used for discriminating blood as the sample and control solution, optimum parameters may change in accordance with various conditions such as hematocrit value (HMT) in the blood, measuring temperature or the like. In that case, the discrimination function according to claim 9, of the present invention, which is defined in the three or more dimensional space, offers remarkable advantages.

Further, dependent claim 8 is added, depending from claim 7.

In view of the amendments and arguments described above, claims 1 and 9 and the claims depending therefrom are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §102(a) are respectfully requested.

### **CONCLUSION**

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a two (2) month extension of time for filing a reply in connection with the present application, and the required fee of \$420.00 is attached hereto.

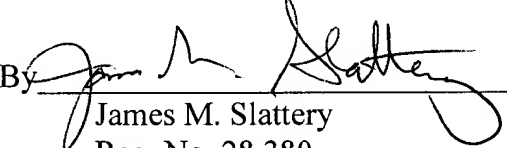
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.


*Application No. 09/890,097*  
*Amendment dated February 13, 2004*  
*Reply to Office Action of September 16, 2003*

*Docket No. 0020-4885P*  
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,  
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By   
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Attachment  
JMS:CTT:jeb:ndb  


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